IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

REVIEW PETITION NO.6 OF 2007
IN
WRIT PETITION NO.4847 OF 1986

Govind Ramchandra Kulkarni & Ors. .. Applicants.
Vs.
Ramu Pandu Gawade & Ors. .. Respondents.

Mr.M.D.Angal for the applicants.
Mr.M.L.Patil for the respondent.

CORAM : D.B.BHOSALE, JJ.
DATED : 21ST JUNE, 2007.

P.C.:

. I have heard Mr.Angal, learned counsel for the applicants and Mr.Patil, learned counsel for the respondents.

2. At the outset, Mr.Angal, learned counsel for the applicants invited my attention to paragraphs 13 and 17 of the judgment and submitted that at 2-3 places, I have recorded certain admissions and/or made observations in the nature of admissions of the applicants which they never gave in the proceedings. My specific attention was invited to following observations in the judgment:

> ".... .... The right of either Anant and Yeshwant or their wives to create tenancy, has not been disputed. In any case, the father of the petitioners was not a treapasser on the suit lands and was

> admittedly holding possession thereof as a tenant.
>
> ....
>
> . In the present case, the question of tenancy and its reference, was not raised at all."
>
> (emphasis supplied)

3. He submitted that the applicant never had an occasion to raise any dispute about "tenancy" of the respondent's father and it was the case of the applicants that all throughout they are trespassers. The observations made by me in the judgment are based on the record. These observations were made on the basis of the fact that the tenancy proceedings had concluded and 32-M certificate was issued in favour of the father of the respondents. Issuance of 32-M certificate was not in dispute. Whether the applicants had an occasion to raise any dispute or to challenge the 32-M certificate was not under consideration in this petition. I do not find any mistake or error on the face of record or any other sufficient reason to interfere in this review application. Mr.Angal also submitted that I did not appreciated the judgment of the Supreme Court in **Vasudev Dhanjibhai Modi Vs. Rajabhai Abdul Rehman** in proper perspective. In paragraph 17 of the judgment I have considered and dealt with said judgment and I do not find any error apparent on the face of record

in the findings recorded by me based on that judgment. Mr.Angal then submitted that the petition had abated against the deceased respondents. In paragraph 18, 19 and 20 of my judgment I have considered the submissions of Mr.Angal on this point and I do not find reason to review those findings. Mr.Angal, lastly submitted that directions given by me in the concluding paragraph 24 of the writ petition cannot be complied with in view of section 48 of the Code of Civil Procedure. In paragraph 24 of the judgment no such directions are given. In the circumstances no case for review is made out. The review application is rejected.

(D.B.BHOSALE, J.)